IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL REVISION PETITION NO. 945/2006

(Panesingh V/s State of Rajasthan & Ors.)

Date of Order : 27/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.L.Khatri, for the petitioner.
Mr. V.R.Mehta, public prosecutor for the State.
Mr. Niranjan Singh on behalf of
M.K.Garg for the respondent.

BY THE COURT:-

By the instant criminal revision petition under Section 397 r/w 401 Cr.P.C., the petitioner has challenged the order dated 25.7.2006 passed by Judicial Magistrate, Barmer (for short 'the trial court' hereinafter) in Crime Report No.71/2006, P.S. Shiv, district Barmer for the offence under Sections 143, 341, 323 and 379 IPC.

Heard learned counsel for the parties.

It appears that in a crime report No.71/06 lodged with Police Station, Shiv, district Barmer, the tractor along with trolley was seized by the police. An application under Section 457 Cr.P.C. was filed by the respondent No.2 before the trial court seeking interim custody of the tractor and trolley in

question during the pendency of the case. In Crime Report No.71/06, respondent No.2 Kamal Singh @ Kalyan Singh is the first informant and complainant who alleged that the petitioner and others committed the theft of the tractor. The trial court released the tractor on interim custody on Supurdginama in favour of respondent No.2. That order has been challenged by the petitioner herein.

It is contended by learned counsel for the petitioner that earlier also very tractor was seized by the police in some other crime report and thereafter the petitioner, respondent NO.2 and proforma respondent No.3 Mool Singh all the three moved an application before the trial court for seeking release of the tractor on Supurdginama. The trial court released the tractor in favour of one Nakhatmal. That order came to be challenged by the petitioner, respondent No.2 and proforma respondent No.3 Mool Singh by way of Revision Petition No. 765/02 which came to be allowed vide order dated 18.2.2003 by this Court and directed the tractor along with the trolley be released in favour of the petitioners therein on the terms and conditions on which it was given to respondent Nakhatmal therein and therefore, the petitioner claims to be in possession of the tractor.

Learned counsel appearing for the respondent No.2 submits that in compliance of the order of this Court dated 18.2.2003, the trial court released the tractor in question in

favour of all the three petitioners in the revision. Thereafter the petitioner and the proforma respondent Mool Singh entered into an agreement and since it was jointly owned tractor, by an agreement they have taken their share in cash and handed over the tractor to the respondent No.2 on 16.8.2005. Learned counsel for the respondent NO.2. has shown me the agreement alleged to have been executed by the petitioner and Mool Singh dated 16.8.2005 duly attested by Notary Public, Barmer on 23.8.2005 wherein it has clearly been stated that the petitioner and proforma respondent Mool Singh had taken their share in cash and thereafter handed over the tractor to respondent No.2 Kamal Singh @ Kalyan Singh and since then the respondent No.2 is only the owner and in possession of the tractor.

It appears that subsequently, the petitioner and proforma-respondent No.3 Mool Singh committed the theft of that tractor for which the crime report has already been registered being Crime Report No.71/06 pending trial. In the circumstances therefore, in my view, the trial court was justified in releasing the tractor in question in favour of the complainant who is respondent No.2 herein.

The revision petition has no force and it is therefore, dismissed.

(H.R.PANWAR),J.

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